

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

GRETCHEN HULL,

Plaintiff,

v.

CIV 05-738 JP/KBM

CITY OF SANTA FE,

Defendant.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

I granted Plaintiff permission to proceed *in forma pauperis* under 28 U.S.C. § 1915(a)(1) based upon the information contained in Plaintiff's financial affidavit. However, I decided that no summons should issue until the complaint was subjected to a frivolousness review. Having performed that assessment, I now recommend that the *pro se* complaint be dismissed under 28 U.S.C. § 1915A.

Plaintiff seeks to reinstitute proceedings which were previously dismissed for lack of subject matter jurisdiction. *See Hull v. City of Santa Fe*, 03cv531 BB/RHS at *Doc. 26* (September 11, 2003). The Tenth Circuit Court of Appeals affirmed that dismissal on July 29, 2004. *See Order and Judgment* (attached as exhibit). For the same reasons stated by the panel of the Tenth Circuit, I will recommend to the presiding judge that this action likewise be dismissed.

Wherefore,

**IT IS HEREBY RECOMMENDED** that this action be dismissed for lack of federal subject matter jurisdiction.

**THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 10 DAYS OF SERVICE** of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636 (b)(1). **A party must file any objections with the Clerk of the District Court within the ten day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**

  
UNITED STATES MAGISTRATE JUDGE